

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**SUCCESSION CAUSE NO. 50 OF 2014**

**IN THE MATTER OF THE ESTATE OF KIBOR ARAP TALAI (DECEASED)**

**NANCY JEPKURUI TALAI ..... 1<sup>ST</sup>  
PETITIONER/RESPONDENT**

**JOSHUA TALAI KIBOR ..... 2<sup>ND</sup>  
PETITIONER/RESPONDENT**

**=VERSUS=**

**IRENE JEPTANUI ..... 1<sup>ST</sup> OBJECTOR/APPLICANT**

**COLLINS KIPKOECH TALAI ..... 2<sup>ND</sup>  
OJBECTOR/APPLICANT**

**EUNICE JEBET TALAI ..... 3<sup>RD</sup>  
OBJECTOR/APPLICANT**

**MOSES KIPTANUI MUGE ..... 4<sup>TH</sup>  
OBJECTOR/APPLICANT**

**MICAH JEMELI MUREI ..... 5<sup>TH</sup> OBJECTOR/APPLICANT**

**SAMMY KIPRONO TANI ..... 6<sup>TH</sup>  
OBJECTOR/APPLICANT**

**ISAIAH KIPKEMBOI RONO ..... 7<sup>TH</sup>  
OBJECTOR/APPLICANT**

**Coram: Before Justice R. Nyakundi**

**M/s MAC Law Advocates**

**M/s Tengekyon & Koske Advocates**

**M/s Nchoe, Jaoko & Co. Advocates**

**M/s Morgan Omusundi & Co. Advocates**

**M/s Chepseba Lagat & Associates**

**RULING**

1. Before this court is an application dated 8<sup>th</sup> day of January 2026 seeking the following orders:
  - a. This Application be certified urgent, heard ex-parte in the first instance and service be dispensed with in the first instance.
  - b. This Honourable Court be pleased to issue an order directing that a registered Auditor carries out an Audit on the ESTATE OF KIBOR ARAP TALAI and prepare a report which shall immediately be filed in Court, listing out the properties held and controlled by each and every beneficiary to the Estate and the present monthly, annual income and Current Market property value to the Court.
  - c. Costs be in the cause.
2. On the grounds that:-
  - a. That it is practically impossible for the petitioners/administrators (from the 1<sup>st</sup> House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) to comply with the orders of the Court given on 2<sup>nd</sup> December, 2025 requiring that All parties currently managing ,controlling, or collecting income from any properties forming part of the estate of the late Kibor Arap Talai, including but not limited to the petitioners/Administrators and the Objectors/Respondents, shall within thirty(30) days file comprehensive accounts ,yet 95% of the properties and Assets are managed and controlled by the respondents IRENE JEPTANUI and COLLINS KIPKOECH TALAI who manage and control the Estates of Kibor Arap Talai, Collects Money from the Estate to the exclusion of the applicants and other beneficiaries.
  - b. If these prayers sought in this application are granted, it will be easy to comply with the Court orders herein and the Court shall be able to get a true information on the status of the Estate from an independent and authentic source.

- c. About 95% of the Estate is managed and controlled by IRENE JEPTANUI and COLLINS KIPKOECH TALAI who forcefully gained entry into the properties, and started manning the properties, wherein when the Petitioners/administrators (from the 1st House) attempted to intervene, it almost resulted in widespread chaos hence the Petitioners/administrators (from the 1<sup>st</sup> House) had to retreated to avoid public embarrassment. To date the said IRENE JEPTANUI and COLLINS KIPKOECH TALAI controls 95% of the Estate of KIBOR ARAP TALAI and collects rents to date.
- d. The petitioners/administrators (from the 1st House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) urgently seek for orders of this Honourable Court directing that a registered Auditor carries out an Audit on the ESTATE OF KIBOR ARAP TALAI and prepare a report which shall immediately be filed in Court, listing out the properties held and controlled by each and every beneficiary to the Estate and the present monthly, annual income and Current Market property value to the Court.
- e. The ruling of the Court delivered on 2nd December, 2025 by this Court directed as follows;-
- (a) THAT All parties currently managing, controlling, or collecting income from any properties forming part of the estate of the late Kibor Arap Talai, including but not limited to the petitioners/Administrators and the Objectors/Respondents, shall within thirty(30) days file comprehensive accounts detailing.
  - (b) All properties under their respective management or control.
  - (c) The rental income and any other cash receivables collected from such properties from the date of the deceased death to date.
  - (d) Current cash balances held from estate income.
  - (e) The County surveyor, Uasin Gishu County, is hereby directed to conduct a comprehensive topographical survey of all land parcels forming part of the estate of the late Kibor Arap Talai and file a detailed report indicating the actual acreage of each parcel.

- (f) The cost of this survey shall be borne by the estate, with the petitioners and Respondents sharing the expenses equally.
- f. No prejudice will be suffered by any or all the other beneficiaries in the event that the prayers herein are granted.
3. The application is supported by the annexed affidavit dated 8<sup>th</sup> day of January 2026 sworn by Nancy Jepkurui Talai and Joshua Talai Kibor whom they deponed as follows:
- a. That I am one of the Petitioners/administrators from the House of the 1st Wife to the deceased (Tapyotin Talai).
  - b. THAT we, the petitioners/administrators (from the 1<sup>st</sup> House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) urgently seeks for orders of this Honourable Court directing that a registered Auditor carries out an Audit on the ESTATE OF KIBOR ARAP TALAI and prepare a report which shall immediately be filed in Court, listing out the properties held and controlled by each and every beneficiary to the Estate and the present monthly, annual income and Current Market property value to the Court.
  - c. That if these prayers sought in this application are granted, it will be easy to comply with the Court orders given on 2<sup>nd</sup> December, 2025 and the Court shall be able to get a true information on the status of the Estate from an independent and authentic source.
  - d. That 95% of the Estate is managed and controlled by IRENE JEPTANUI and COLLINS KIPKOECH TALAI who forcefully gained entry into the properties, and started manning the properties, wherein when the Petitioners/administrators (from the 1<sup>st</sup> House) attempted to intervene, it almost resulted in widespread chaos hence the Petitioners/administrators (from the 1<sup>st</sup> House) had to retreated to avoid public embarrassment. To date the said IRENE JEPTANUI and COLLINS KIPKOECH TALAI controls 95% of the Estate of KIBOR ARAP TALAI and collects rents to date.
  - e. That it is practically impossible for the petitioners/administrators (from the 1<sup>st</sup> House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) to

comply with the orders of the Court given on 2<sup>nd</sup> December, 2025 requiring that All parties currently managing ,controlling, or collecting income from any properties forming part of the estate of the late Kibor Arap Talai, including but not limited to the petitioners/Administrators and the Objectors/Respondents, shall within thirty(30) days file comprehensive accounts, yet 95% of the properties and Assets are managed and controlled by the respondents IRENE JEPTANUI and COLLINS KIPKOECH TALAI who manage and control the Estates of Kibor Arap Talai, Collects Money from the Estate to the exclusion of the applicants and other beneficiaries.

f. The ruling of the Court delivered on 2<sup>nd</sup> December, 2025 by this Court directed as follows;-

(a) THAT All parties currently managing, controlling, or collecting income from any properties forming part of the estate of the late Kibor Arap Talai, including but not limited to the petitioners/Administrators and the Objectors/Respondents, shall within thirty(30) days file comprehensive accounts detailing.

(b) All properties under their respective management or control.

(c) The rental income and any other cash receivables collected from such properties from the date of the deceased death to date.

(d) Current cash balances held from estate income.

(e) The County surveyor, Uasin Gishu County, is hereby directed to conduct a comprehensive topographical survey of all land parcels forming part of the estate of the late Kibor Arap Talai and file a detailed report indicating the actual acreage of each parcel.

(f) The cost of this survey shall be borne by the estate, with the petitioners and Respondents sharing the expenses equally.

g. Through an application dated 16<sup>th</sup> October, 2025, We, the petitioners/administrators (from the 1<sup>st</sup> House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) duly informed the Court that the respondents IRENE JEPTANUI and COLLINS KIPKOECH TALAI manage and control the Estates of Kibor Arap Talai, Collects Money from the

Estate to the exclusion of the applicants and other beneficiaries daily or monthly from the Properties, money from the estate of Kibor Arap Talai (the properties forming the Estate).

- h. Through an application dated 16<sup>th</sup> October, 2025, We, the petitioners/administrators (from the 1<sup>st</sup> House) (NANCY JEPKURUI TALAI and JOSHUA TALAI KIBOR) duly informed the Court that the respondents IRENEJEPTANUI and COLLINS KIPKOECH TALAI manage and control the below listed Commercial properties forming the Estate of Kibor Arap Talai (the properties forming the Estate)

**LIST OF SHOPS IN PLOTS 64, 65, 60, 127, 138 MARKET STALLS AND SLAUGHTER HOUSE**

<b>PLOT NO.64(TALAI CENTRE SHOPS/RENTAL)</b>		
<b>PREMISE</b>		
<b>No</b>	<b>Shop Name</b>	<b>Rent per Month</b>
.		
1.	KESMOI SACCO	10,000 PER MONTH
2.	COOPERATIVE BANK ATM	6,000 PER MONTH
3.	KAERIS SHOP/MOHAA SHOP	7,000 PER MONTH
4.	POST OFFICE	6,000 PER MONTH
5.	M.W MEDICAL CENTRE SALON5,000 PER MONTH	10,000 PER MONTH
6.	RELAX BUTCHARY/RELAX CYBER	10,000 PER MONTH
7.	SYSTEM SHOP	15,000 PER MONTH
8.	VISION SALON	5,000 PER MONTH
9.	Blossom Salon	5,000 PER MONTH
10.	Foto Motto shop	7,000 PER MONTH
11.	Material Shop (no name)	4,000 PER MONTH
12.	Liz Praglo Salon	5,000 PER MONTH
13.	Phone Repair	5,000 PER MONTH
14.	Stationary Shop	5,000 PER MONTH

15.	Norwich Cyber	5,000 PER MONTH
16.	HI- Tech Cyber	5,000 PER MONTH
17.	FI Bar	10,000 PER MONTH
18.	Pool	5,000 PER MONTH
19.	Nectar Pool and Bar	7,000 PER MONTH

### **STOREY BUILDING PLOT NO.64**

<b>No.</b>	<b>Shop Name</b>	<b>Rent per Month</b>
1.	Box Office Shop	7,000 PER MONTH
2.	ETTI Driving School	10,000 PER MONTH
3.	Tecno Shop	7,000 PER MONTH
4.	Women Dress Boutique (no name) (written Dresses)	5,000 PER MONTH
5.	Stationary/Bookshop & Mpesa	7,000 PER MONTH
6.	Gadget Site - Phone accessories	5,000 PER MONTH
7.	Ben Electrics	7,000 PER MONTH
8.	Phone Laptops and Woofer Repairs & Accessories	5,000 PER MONTH
9.	Circuit solution	5,000 PER MONTH
10.	Game house	7,000 PER MONTH
11.	Phone Tech	7,000 PER MONTH
12.	Bogie Bites	7,000 PER MONTH
13.	Loud Lounge	10,000 PER MONTH
14.	Glorion Salon	5,000 PER MONTH
15.	The Drip Hub	10,000 PER MONTH
16.	Glamour Chemist	7,000 PER MONTH
17.	Chemist	7,000 PER MONTH
18.	Phone accessories	7,000 PER MONTH
19.	Apex nails - Upstairs	7,000 PER MONTH

**NEXT BUILDING PLOT NO 64**

<b>No.</b>	<b>Shop Name</b>	<b>Rent per Month</b>
1.	Eldovegas Bar	10,000 PER MONTH

**NEXT BUILDING PLOT NO 64**

<b>No.</b>	<b>Shop Name</b>	<b>Rent per Month</b>
<b>1.</b>	The Point Pub	10,000 PER MONTH
<b>2.</b>	Rokaz Pub	10,000 PER MONTH
<b>3.</b>	F2 Lounge	15,000 PER MONTH
<b>4.</b>	Shamoon Havens & Chomazone	10,000 PER MONTH
<b>5.</b>	La-Rosa Hotel	5,000 PER MONTH
<b>6.</b>	Electronic Repair/Tool	7,000 PER MONTH
<b>7.</b>	Rio Pub	5,000 PER MONTH
<b>8.</b>	Pool	5,000 PER MONTH
<b>9.</b>	Nectar Hub	5,000 PER MONTH
<b>10.</b>	G9 Vault	5,000 PER MONTH
<b>11.</b>	Welding Behind	5,000 PER MONTH
<b>12.</b>	Mabatini House	2,000 PER MONTH

**PLOT NO 65(One Acre)**

<b>No.</b>	<b>Shop Name</b>	<b>Rent Per Month</b>
<b>1</b>	<b>TLARY HOSTELS</b>  (25 Units- 8 Units at 5,000  40,000 PER MONT  9 Units at 7,000-63,000 Per Moth  MONTH	
<b>2</b>	HOMES HOTELS	10,000 Per Month

<b>3</b>	JELA BEAUTY SALON	
<b>4</b>	PHONE REPAIR	5,000 PER MONTH
<b>5</b>	FUNDI WA SIMU	5,000 PER MONTH
<b>6</b>	OBRA RESTAURANT	10,000 PER MONTH
<b>7</b>	PHOTO STUDIO (MANUS)	
<b>8</b>	TUMAINI SHOP	15,000 PER MONTH
<b>9</b>	LANTECH COMPUTER	7,000 PER MONTH
<b>10</b>	NAVAZ CHOMAZONE/HOTEL	10,000 PER MONTH
<b>11</b>	MEGABITE CAFE	15,000 PER MONTH

#### **PLOT NO 60**

<b>1</b>	<b>PEACOCK HOTEL</b>
<b>2</b>	Glamour Salon & Barber (at behind peacock Hotel -10,000)
<b>3</b>	Mwangaza Hotel & Buchery
<b>4</b>	15 rooms behind Mwangaza Hotel
<b>5</b>	5 Rooms behind peacock Hotel

MARKET STALLS	200 at Kshs 2,000 Per Moth- Ksh 400,000 Per Month
PLOT NO 138	KurjiRanji Build House 2 Units at Kshs 10,000-Kshs 20,000 Per Month
SLAUGHTER HOUSE	

9. That No prejudice will be suffered by any or all the other beneficiaries in the event that the prayers sought herein are granted.
10. This intestate estate is at a tail end calling for the administrators and the beneficiaries to rally behind and expend resources to ensure that qualitative and quantum approach converge to achieve, a fair and proportionate distribution of the estate. It is with this in mind that the court on 2.12.2025 ruled as follows:

“ Accordingly, the court makes the following orders:

  - a. All parties currently managing, controlling, or collecting income from any properties forming part of the estate of the late Kibor Arap Talai, including but not limited to the petitioners/Administrators and the objectors/Respondents shall within thirty (30) days file comprehensive accounts detailing
    - i. All properties under their respective management or control*
    - ii. The rental income and any other cash receivables collected from such properties from the date of the deceased death to date*
    - iii. Current cash balances held from estate income*
  - b. *The county surveyor Uasin Gishu County, is hereby directed to conduct a comprehensive topographical survey of all land parcel forming part of the estate of the late Kibor Arap Talai and file a detailed report indicating the actual acreage of each parcel*
  - c. *The costs of this survey shall be born by the estate, with the petitioners and Respondents sharing the expenses equality*
  - d. *The matter is listed for Status Conference on 19<sup>th</sup> December 2025 to confirm compliance and for further directions.*
11. From the above the instant application stretches the need for audit of the entire assets portfolio in addition to the mapping and correlation of data by the County Surveyor which shall include and not limited the proposal on the scheme of distribution as intended by the beneficiaries

to the intestate estate. The necessity of this arises for the very reasons that before the death of the deceased certain legitimate rights of occupation and use had been outlined though not crystalized within the codification of the Law of Succession Act. I am persuaded to all this view regarding the distribution of the intestate estates that focus of it should heavily balance the Law of Succession Act, customary law, with constitutional rights more specifically Article 27 (4) of the constitution itself. This scheme of distribution should not lose sight on vindicating the rights of widows, widowers, children, and the protection of matrimonial assets. I bear in mind that customary laws in our legal system are valid only to the extent that they do not conflict with the constitution or statutory law. The administrators at this stage play a major role of managing the estate, including valuation of assets, undertaking a survey plan by an expert in that area to come up with a proposed scheme of distribution. The beneficiaries to the intestate estate have a legitimate expectation that the appointed Administrator(s) will act fairly and the court will only intervene in the day to day administration if the administrator (s) acts unfairly or irregularly against the decree of the court which provides the basic structure in the form of a certificate of confirmed grant to guide the distribution.

- 12.** Primarily and fundamentally so Probate Courts in Kenya have underscored that auditing or accounting for the assets of an intestate estate is a mandatory statutory duty of an administrator(s) before distribution. This process often refers to as passing of accounts or rendering an inventory ensures that all liabilities are captured and evidence that they have been catered for and absolutely paid living the net estate precisely accurate to have it devolved to the beneficiaries according to law. Distribution of an estate is contingent upon the finalization of detailed accounts of assets and liabilities to the intestate estate. Failure to faithfully deal with the estate in terms of specifying the net estate can lead to the revocation of the grant. The

rendering of accounts or as it is suggestive of this application to lay bare the inventory of both assets and liabilities is both an equitable duty and statutory obligations for administrators duly appointed under Section 66 of the Law of Succession Act. That is the position in law as provided for in Section 71 (2) of the Law of Succession Act which empowers the court to audit the administration of an estate and require administrators to render accounts before confirming a grant for distribution. This same codified law on inheritance also empowers the courts with the authority to order forensic audits especially in cases where mismanagement or intermeddling is suspected to have occurred so that the assets and proceeds can be brought to book. In my strong considered view, distributing assets without filing a proper inventory and accounts is deemed a procedural defect that should invalidate the distribution with a necessity to return the entire assets and liabilities to the estate. It has happened now and again that failing to disclose all assets and account for their proceeds can result in the revocation of the grant and potential liability for intermeddling.

**13.** This Court has been seized of this matter for sometime now and yet there seems to be laxity and indolence by the administrators(s) to comply with the law on this important aspect of the administration of sharing the court with the inventory of assets and liabilities. Therefore I reiterate that a comprehensive list of all assets in the intestate estate of the deceased is mandatory. In addition, all financial transactions related to the estate must be documented and shared with the court. That the final confirmation of this estate requires court approval of the final accounts. This duty duly vested with the administrators is indispensable.

**14.** A part from the drama of inheritance, inheritance disputes at the interpersonal level, inheritance has a major impact on the structural societal level. Research has shown whether under the radical or conservative typology all agree that inheritance practices are a major factor in promoting inequality in society. The historian and economist

scholars on area of inheritance converge and agree the household in an inheritance matrix play an important role in facilitating industrialization or capitalism given the importance of properly transmission and how it may be used to determine the wealth declaration of an individual. A case in point in which the protracted inheritance litigation and how it promotes the poverty index and income equality may be exemplified by this very Succession Cause in the matter of the estate of one Kibor Arap Talai which was initiated for confirmation and distribution way back in 2014 and still no immediate sight to have it concluded within a reasonable time in the future.

**15.** Why does inheritance generate such interest and ire? Is a question which need to be addressed and answered by the Kenya Legal System, the policy makers, and the legislature all combined. I have said this before the 1981 statute on Succession has not delivered the Human Rights Components to the Kenyan people and there is compelling evidence that the legislature and the judiciary might and should consider to formulate new jurisprudential decisions or new laws dealing with inheritance. Sometimes.

**16.** I wonder whether the concept of inheritance makes sense to our society. One has got to get the meaning both at the literal and purposive sense. The concise Oxford Dictionary defines inherit as received (property rank title) by legal descent or succession, derive (quality character from one's progenitors. (abs) success as heir" The term is derived from the Latin heres which is also the root for the term heir, defined as "person receiving or entitled to receive property or rank as legal representative of former owner one to whom something (joy punishment etc) is morally due. In short inheritance concerns the transfer of rights to use property typically in the first instance, between people who are related in a certain way to each other, ie through certain kinship ties. Two things thus need to be discussed: what precisely is inherited and who exactly is the beneficiary(**See Gender Research and Advocates Project 2005**)

- 17.** Inheritance is associated with prosperity and wealth creation for it positions human beings of that class higher in society than other mortals whose social value of property accumulated is what is commonly referred to as surviving under 1\$ a day. When a person is in this world one of the envisioned vision and dream is to seek acquisition of property. He is seeking it because of his or her honour in Society. The ownership or possession or manner of assets is considered as an aspect of society not laughing at one during his or her lifetime or when he/she has numbered the days a right on earth society can point at the great things he/she had done given the large Intestate or Testate left behind to be inherited. If a being created by God leaves no property to be inherited he or she is laughed at and he or she is said to have been measly and good for nothing.
- 18.** This passage presents the striking similarities of the conflict in inheritance disputes in Kenya. That as it may be the beneficiaries and administrator(s) must rise up and ensure transfer of ownership of land rights to themselves so that justice can be found within their households. Justice is a fundamental multifaceted principle of social order, fairness, and morality that mandates the equitable distribution of resources, rights, and duties among individuals. The idea of justice connotes a rightful balance in a situation where two or more parties or principles are in conflict.
- 19.** For those reasons in so far as the application is concerned and the overall discourse of this litigation the following orders shall abide:
- a) *That a qualified auditor who has duly qualified as a Certified Public Accountant with a valid practicing certificate from the Institute of Certified Public Accountants of Kenya (ICPAK) be and is hereby appointed to audit the entire Intestate Estate of the deceased on both assets and liabilities within 30 days from today's date.*
  - b) *That the Administrator(s) or as the case may be the beneficiaries who may have come into contact with assets and*

*liabilities which accrue from the Intestate Estate of the deceased be and are hereby compelled to submit all the necessary data, receipts, on cash receivables or expenditure, to the appointed auditor for forensic analysis,*

- c) That the Advocates of the High Court instructed by the beneficiaries of administrators under Article 50 2(G) of the constitution source for firms of auditors to not more than four for onward to this court to pick one firm duly qualified to undertake the professional exercise as defined in this order to facilitate the confirmation of grant and have the estate distributed in accordance to law.*
- d) That the earlier order on the County Surveyor as a technical expert shall be presumed to proceed within the timelines upon which he would submit records, and maps of the property in question and physical features to assist the court in resolving this Succession Dispute. In this respect, it would be necessary for the County Surveyor and his team to precisely identify, measure, and mark property corners, lines, and beacons to establish the exact boundaries of the Intestate Estate. This will require the County Surveyor to carry out the best survey by undertaking small and medium cadastral of the Intestate Estate*
- e) That a final Status Conference to be held on 18.3.2026.*

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 18<sup>TH</sup> DAY OF FEBRUARY, 2026**

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**R. NYAKUNDI  
JUDGE**